

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Implementation of the Local Competition)	CC Docket No.96-98
Provisions of the Telecommunications Act of)	
1996)	CC Docket No. 95-116
)	
Telephone Number Portability)	

**REPLY COMMENTS OF AT&T WIRELESS SERVICES, INC.
ON THIRD FURTHER NOTICE OF PROPOSED RULEMAKING IN
CC DOCKET 99-200, AND SECOND FURTHER NOTICE OF PROPOSED
RULEMAKING IN CC DOCKET NO. 95-116**

AT&T Wireless Services, Inc. (“AWS”) hereby respectfully submits its reply comments on the Commission’s Further Notice of Proposed Rulemaking (“FNPRM”) in the above dockets.¹

I. DISCUSSION

It is clear from the comments filed in this proceeding that the changes proposed in the FNPRM have engendered significant confusion and uncertainty as to the implementation requirements for local number portability (“LNP”) and thousand block number pooling. Although AWS does not object in principle to certain of the changes, in order to ensure the successful nationwide roll out of thousands block number pooling by both wireline and wireless

¹ See *Matter of Numbering Resource Optimization, Implementation of Local Competition Provisions of the Telecommunications Act of 1996, Telephone Number Portability*, FCC 02-73, CC Dockets No. 99-200, 96-98, 95-116, Third Order on Reconsideration in CC Docket No.99-200, Third Further Notice of Proposed Rulemaking in CC Docket 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No.95-116 (2002) (“FNPRM”); Federal Register Notice, 67 Fed. Reg. 16347 (Apr. 5, 2002) (reply comments due May 20, 2002).

carriers, AWS submits that the Commission should not expand the scope of the LNP or pooling requirements at this juncture. To the extent it does expand its requirements, it should provide affected carriers with additional time to comply with the revised requirements.

A. The Record Supports Maintaining the Current Bona Fide Request Requirement for LNP Deployment

Most of the commenters, with the exception of the states, support maintaining the Commission's current requirement that carriers provide LNP only upon a carrier's specific bona fide request for LNP, as this is most consistent with the Telecommunications Act of 1996 ("1996 Act"), reasonable, and cost-efficient.² As TDS Telecom noted, the legislative intent behind the LNP requirement was to require LNP "only in the context of a specific request from another telecommunications carrier or any other person who actually seeks to connect with or provide services using the LEC's network."³ AWS agrees with the carriers who note that the costs of requiring LNP are "significant" and that the incurrence of these costs are not justified when there has been no request for LNP.⁴ The Commission should not reconsider its own finding that the "request" requirement ensures that carriers' resources are allocated in the most efficient manner.⁵

² See, e.g., AWS comments at 3; CTIA comments at 3; Independent Companies comments at 2; NTCA comments at 3; Rural Cellular Association comments at 2; Western Wireless Corporation comments at 2; NECA/NRTA/OPASTCO comments at 4; New York Telecom Association comments at 6-11; TDS Telecommunications comments at 2; USTA comments at 2-3. But see, Iowa Utilities Board comments at 2; Ohio PUC comments at 2.

³ TDS Telecom comments at 2-3.

⁴ TDS Telecom comments at 3-4; Rural Cellular Association at 4; Western Wireless Corp. comments at 2; CTIA comments at 3.

⁵ AWS wishes to clarify that its support of the current "LNP by request" rule is predicated on the fact that the Commission's rules require all covered commercial mobile radio services ("CMRS") providers to support by roaming by November 24, 2002. 47 CFR § 54.31(a)(2). In order to support roaming all wireless carriers -- regardless of whether they have received a request for LNP -- must, pursuant to industry standards, split the Mobile Identification Number ("MIN") from the Mobile Directory Number ("MDN"). See *North American Numbering Council Wireless Number Portability Subcommittee Report on Wireless Number Portability, Technical, Operational and Implementation Requirements, Phase II*. Version 1.7, Section 3.2 (describing the obligations of non-porting carriers).

Some of the commenters support requiring LNP regardless of whether there is a specific request based on the mistaken belief that blanket LNP deployment is needed to promote number conservation.⁶ Contrary to the Iowa Utilities Board's assertion, increasing the universe of carriers that can port numbers will not significantly enhance number conservation.⁷ Although some de minimus number conservation benefits may be derived from requiring all carriers to be LNP capable, the real number conservation benefits will be derived from thousand block number pooling.⁸ Moreover, as noted by AWS in its comments and recognized by the Commission in its FNPRM, the capability to participate in thousands-block number pooling does not require full LNP capability.⁹ If the Commission finds that the resulting number conservation benefits justify the cost, the Commission could require carriers who are not fully LNP capable to support pooling.

The Commission should also reject assertions of Mid-Missouri Cellular that an LNP request not be considered bona fide unless a carrier can certify that it meets certain requirements. Specifically Mid-Missouri Cellular proposes that a carrier should not be able to issue an LNP request unless it can demonstrate that it: (i) has an existing NPA–NXX in the same rate center; (ii) does not impose any locks on subscriber handsets; and (iii) waives early termination fees.¹⁰

⁶ See Iowa Utilities Board comments at 2-4; Ohio PUC comments at 3; National Ass'n of State Utility Consumer Advocates comments at 6.

⁷ Iowa Utilities Board comments at 3-4.

⁸ *Numbering Resource Optimization, Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, FCC 00-429, CC Dockets No.99-200, 96-98, Second Report and Order, Order on Reconsideration in CC Docket No.96-98, and CC Docket No.99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No.99-200 (2000) ("*NRO Second Report and Order*"), at para. 7.

⁹ AWS comments at 6; FNPRM at para. 9. A carrier may implement or participate in thousands-block number pooling by deploying the architecture for LNP, but LNP requires additional processes and procedures beyond the architecture.

¹⁰ Mid-Missouri Cellular comments at 10.

The first of these requirements is inconsistent with the current LNP requirements which tie the ability to request LNP not to the holding of numbers in a rate center, but rather to the carrier's certification or license to provide service in an area.¹¹ The latter two requirements are clearly outside the scope of this proceeding and address long standing industry practices that, contrary to Mid-Missouri Cellular's allegations, are evidence of the highly competitive nature of the wireless industry.¹² In any case, to the extent that these practices are a matter of concern, they are, as Mid-Missouri Cellular notes, the subject of pending federal court litigation.

B. Pooling Regardless of LNP

In its comments, AWS supported the Commission's tentative conclusion that all carriers in the top 100 MSAs should have to participate in pooling, regardless of whether the carriers are fully LNP capable. Many of the commenters, however, have raised substantial concerns about the cost and burden associated the implementation of such architecture.¹³ Although AWS would prefer from a public policy and equity perspective to have all carriers participate in pooling at the same time, the first priority must be to ensure the successful roll-out of pooling in the largest markets by the carriers who are required under the Commission's current rules to implement the LRN architecture. As a result, AWS would not oppose providing carriers who do not otherwise have an obligation to implement the LRN architecture additional time to do so.

¹¹ 47 C.F.R. § 52.23(b)(2)(iv). This is in contrast with pooling, where carriers cannot pool unless there is another carrier which has numbers in the same rate center.

¹² Moreover, the Commission has recognized that carriers, even incumbent local exchange carriers ("LEC") which possess an inherent competitive advantage, may impose termination charges in certain circumstances. *See Expanded Interconnection with Local Telephone Company Facilities*, FCC 93-378, CC Docket No. 91-141, Second Memorandum Opinion and Order on Reconsideration (1993).

¹³ Independent Companies comments at 3; New York Telecom Association comments at 8; TDS Telecom comments at 3.

If the FCC decides to expand the scope of the pooling obligation, it should also place a limit on the areas in which carriers are required to participate in pooling. Commenters have made compelling arguments about the potential wastefulness of implementing pooling in those areas where it would not provide significant number optimization benefits.¹⁴ It would be ideal if, as CTIA suggested, the Commission could perform a cost benefit analysis in each instance to determine whether pooling in a particular rate center served the public interest.¹⁵ AWS submits, however, that its proposal of requiring pooling only in those rate centers with a minimum of three carriers would roughly accomplish the same goal in a significantly less resource intensive manner.¹⁶

The Commission must, however, reject the proposal by Mid-Missouri Cellular to adopt a version of pooling that is not based on LNP architecture or, for wireless carriers, the MIN and MDN split. Although a number of the commenters have objected to having to expend resources to implement the LNP architecture to support pooling, no commenter – other than Mid-Missouri Cellular – has asserted that the architecture that supports LNP is not a necessary pre-requisite to pooling. As Voicestream notes in its comments, considerable resources were devoted to the question of which architecture should be selected to support thousands block pooling.¹⁷ The LRN methodology which supports LNP was ultimately selected as the thousand block pooling infrastructure¹⁸ and since that time the Commission has consistently tied the pooling obligation

¹⁴ See e.g. AWS comments at 7; Independent Companies comments at 4; USTA comments at 4-5; Voicestream Wireless comments at 4.

¹⁵ CTIA comments at 4.

¹⁶ AWS comments at 7.

¹⁷ Voicestream comments at 3.

¹⁸ *Id.*

to LNP capability.¹⁹ A complete change in the pooling infrastructure at this juncture would cause chaos and jeopardize the successful nationwide roll-out of pooling.

The FCC should similarly reject Mid-Missouri Cellular's proposal to alter the way that wireless carriers participate in pooling so that small carriers can avoid implementing the MIN/MDN split.²⁰ Contrary to the representations made by Mid-Missouri Cellular, its proposal would either require significant changes in the manner in which wireless carriers participate in pooling (only one wireless carrier per NPA-NXX) or in the MIN assignment process (all MINs and MDNs must match).²¹ The former would reduce the effectiveness of pooling and would dramatically complicate the administration of the pools. The latter would require time-consuming and costly changes in carriers' provisioning systems, which could not be made in time to meet the current November 24, 2002 pooling date. Moreover, the Commission previously considered and rejected a similar non-LNP based pooling proposal by GTE, noting that:

The record and the NANC's findings support our view that continued Phase II LNP implementation by CMRS providers is necessary to ensure that all CMRS providers are capable of participating in thousands-block number pooling.²²

¹⁹ 47 C.F.R. § 52.20(b); *Numbering Resource Optimization*, FCC 00-104, CC Docket No.99-200, Report and Order and Further Notice of Proposed Rulemaking (2000) ("NRO First Report and Order"), at para 125; *NRO Second Report and Order* at para. 34.

²⁰ Mid-Missouri Cellular comments at 10-11.

²¹ *See Ex Parte Comments on Adverse Impact of WLN on Pooling and MIN/MDN Separation on E911, WLN Forbearance Proceeding*, filed March 26, 2002 ("MMC March 26 Ex Parte")

²² *Cellular Telecommunications Industry Association's Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability* FCC Dockets WT 98-229 and CC 95-116, Order on Reconsideration, issued February 23, 2000 at para. 11 (in which GTE proposed to implement pooling without Phase II LNP implementation or the separation of the MIN and MDN). In this order the Commission also reaffirmed its rejection of a proposal by the Telecommunications Resellers' Association to implement LNP with an alternative approach to the MIN/MDN split, known as the "LRN Relay". *Id.* at Paras. 17-18.

C. Certainty is Required for the List of 100 MSAs

AWS continues to believe that there is some value in including consolidated MSAs (“CMSAs”) in the top 100 MSAs, provided that the Commission provides a transition period for carriers to implement porting and/or pooling in these CMSAs.²³ However, it is clear from the comments that the Commission’s proposal to expand the list of top 100 MSAs has created substantial confusion and uncertainty -- particularly for those carriers who find themselves subject to a portability and pooling obligation for the first time under the revised list.²⁴ The industry, the regulators and the number administrators are in the midst of implementing several important numbering mandates, including the roll out of nationwide number pooling. AWS submits that what is most important at this critical juncture is certainty and stability in the implementation rules. Accordingly the Commission should, for now, allow carriers to focus on the original 100 MSAs. If the Commission does decide to include the additional CMSAs, AWS

²³ AWS comments at 7.

²⁴ See, e.g., US Cellular Corp comments at 13; CTIA comments at 5; Western Wireless Corporation comments at 4-5; NECA/NRTA/OPASTCO comments at 3; New York Telecom Ass’n comments at 15; USTA comments at 5.

reiterates that the Commission should allow sufficient time for carriers to comply with the porting or pooling requirements in these new areas.²⁵

Respectfully submitted this 20th day of May 2002,

/s/ Suzanne Toller

Suzanne Toller
Jane Whang
Davis Wright Tremaine LLP
One Embarcadero Center, Suite 600
San Francisco, CA 94111
Tel.: (415) 276-6500
Fax: (415) 276-6599

/s/ Douglas Brandon

Douglas Brandon
Vice President – External Affairs
AT&T Wireless Services, Inc.
1150 Connecticut Avenue, N.W., 4th Floor
Washington, DC 20036
Tel. (202) 223-9222

Attorneys for AT&T Wireless Services, Inc.

²⁵ AWS comments at 7-8.